

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
EDWARD SHAPIRO, P.C., et al.,

Plaintiffs,

-against-

SHREENATH LAXMAN, et al.,

Defendants.
-----X

ORDER

CV 06-5865 (ADS) (ARL)

LINDSAY, Magistrate Judge:

This matter was referred to the undersigned by District Judge Arthur D. Spatt for the purpose of conducting an evidentiary hearing as to the continuation of the preliminary injunction entered by Judge Spatt on December 1, 2006. Accordingly, the parties appeared before the undersigned on December 1, 2006 to schedule the evidentiary hearing. The parties reported that the software at issue in this case is voluminous and would need to be analyzed by their respective experts prior to the hearing. Thus, the parties represented that they would be in a better position to evaluate the time needed to prepare for the hearing following the exchange of software and consultation with their experts. Thus, with the parties agreement, the court directed that the parties exchange the software at issue in this matter or object to such production by December 7, 2006. See Order, dated December 1, 2006. The court also directed that the parties submit a joint status letter by December 13, 2006 advising how much time will be needed to prepare for the evidentiary hearing and, following receipt of that letter, the hearing would be scheduled. By letter dated December 11, 2006, plaintiffs, with the consent of the defendants, sought an extension of the deadline to submit the joint status letter to December 22, 2006. That application was granted by Order dated December 13, 2006.

Rather than submitting a joint letter as directed, the parties have each submitted a status letter on December 22, 2006. According to the parties, neither side has produced the software as directed. Defendants explain that the production of their software has been delayed because the software needs to be copied and compiled prior to production. Defendants represent that their software will be ready for production by December 29th, and, assuming that the parties exchange their software on December 29th, defendants will be prepared to go forward with the hearing during the week of February 12, 2007. Plaintiffs represent that they have “produced” its software (the “Shaplaw Program”) by making it available to the defendants at the offices of Edward Shapiro, P.C., located in Wantagh, New York. According to the plaintiffs, while they have not yet produced the “code” for the Shaplaw Program, they have no objection to its production and expected to do so on December 22, 2006. Finally, the plaintiffs state that, having not yet received the defendants’ production, they are unable to assess how much time will be needed to prepare for the hearing.

The court has reviewed the transcript of the December 1, 2006. The parties represented that their respective software would be exchanged, not made available, by December 13, 2006. While plaintiffs have not provided any reason why it cannot provide copies of the software to the defendants, the defendants have explained that copies are needed for two reasons: (1) so that their experts, located in Colorado, can meaningfully analyze it; and (2) to narrow the scope of what the plaintiffs allege to be infringed. The court finds the defendants' arguments compelling. Thus, the plaintiffs shall produce copies of the software alleged to be infringed, together with the necessary codes, by December 29, 2006. Likewise, the defendants shall produce copies of their software by December 29, 2006. The parties shall provide a further status letter by January 5, 2006. Upon receipt of that *joint* letter, the court will schedule the evidentiary hearing.

Dated: Central Islip, New York
December 27, 2006

SO ORDERED:

_____/s/_____
ARLENE ROSARIO LINDSAY
United States Magistrate Judge